IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16032 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RECREATION CLUB DAHOD - Petitioner(s)

Versus

COLLECTOR DAHOD - Respondent(s)

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Appearance :

MR SUNIL S JOSHI for Petitioner No(s).: 1.

MR PR ABICHANDANI AGP for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 12/08/2005

ORAL JUDGMENT

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1. Rule. Learned AGP Mr.P.R.Abichandani waives service of Rule on behalf of the respondent. At the joint request of the learned Advocates appearing for the

parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged the order dated 18/1/2005 passed by the respondent. In the said order a certain portion of the land is to be reclaimed by the Government as per the order of the Collector except the portion on which the Club House of the Recreation Club is located. Earlier the petitioner had approached this Court apprehending some action of the respondent by filing SCA 10460/2003. This petition came to be disposed of by an order dated 4/3/2004. In the said order learned Judge provided that it would be open for the respondent to issue notice to the petitioner calling upon it to show cause as to why a particular action should not be taken and after hearing the petitioner it would be open for the respondent to pass appropriate order in accordance with law.

3. Learned Advocate for the petitioner pointed out that pursuant to the order passed by this Court, respondent issued a communication on 31/3/2004 produced at Annexure “L” to the petition. In the said communication all that is stated by the respondent is that pursuant to the order

passed by the High Court, the petitioner should remain present before the Collector on 12/4/2004. In the said communication dated 31/3/2004 there is no indication as to what action the respondent proposed against the petitioner nor the petitioner is put to any notice as to the material on the basis of which such action is proposed. In that view of the matter, it was not open for the respondent to pass final order adverse to the petitioner dated 18/1/2005 which is under challenge in the present petition. Quite apart from the action of the Collector not being in conformity with the principles of natural justice, the same also offends the directions issue by this Court and the earlier petition namely SCA 10460/03 on 4/3/2004.

4. From the above mentioned reasons the impugned order Annexure “A” dated 18/1/2005 passed by the respondent is quashed, the proceeding is remanded back to the Collector for fresh consideration after issuing a proper show cause notice on the basis of which action is proposed to be taken against the petitioner. It will be open for the petitioner to produce such material as the petitioner desires. It will be open for the Collector to pass fresh orders according to law after considering the material

placed on record. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

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